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[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

2611

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.	09/262,870	Applicant(s)	ELLIS, MICHAEL D.
Examiner	Hunter B. Lonsberry	Art Unit	2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 08 October 2002.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

4) Claim(s) 1-97 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-97 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Disposition of Claims**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 04 March 1999 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)      4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)      5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ .      6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Response to Arguments***

Applicant's arguments filed 10/8/02 have been fully considered but they are not persuasive.

1) "However, Fig 25 clearly shows a pay-per-view interface and not a video on demand interface. As explained in the background of applicant's specification, video on demand systems are not pay per view systems. Pay per view systems offer views "a relatively small number of programs shown at only a few predetermined broadcast times." (Response page 4).

Regarding applicant's argument 1, the examiner agrees that the labels in Figure 25 are shown as PPV. However, LaJoie discloses that the system may be utilized to display VOD, IPPV, PPV, and NVOD programming in the embodiments of the invention (column 1, lines 43-49, column 2, lines 1-7, column 7, line 33-column 10). An Impulse Pay Per View program is a video program that begins after a user has selected a program that they desire to view and not at a predetermined time. LaJoie discloses in Figures 25 and 28, an IPPV interface, and indicates that a program maybe viewed by a user right after it is purchased and not at a later time (column 16, lines 10-28, column 21, line 30, column 22, line 36, column 29, lines 33-column 30, line 11, column 30 line 64-column 32-44). Therefore, LaJoie does disclose the use of a Video on Demand interface.

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application

by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-4, 6-15, 17-20, 22-24, 26-29, 31, 32, 35-37, 50, 52, 54-65, 67-70, 75-77 and 83-85 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 5,850,218 to LaJoie.

Regarding claim 1, LaJoie discloses an EPG system which runs on STB 6 with S-Video output 47 for displaying images (column 13, lines 5-21), the STB can display a partial program guide onscreen (508) at the same time as a TV program, the EPG displaying information on a VOD program listing (Figure 25, 508).

Regarding claim 2, LaJoie shows in Figure 25, an EPG that is overlaid over a TV program.

Regarding claim 3, LaJoie shows in Figure 25, a screenshot 492, in which a TV program has been reduced to show an unobscured view of the EPG.

Regarding claim 4, LaJoie shows in Figure 24, that a user may use the up/down keys 128 on a remote to select VOD programming (column 29, lines 33-36).

Regarding claim 6, LaJoie discloses in Figure 4, that a subscriber may press an "I" button to display the EPG in the main display.

Regarding claim 7, LaJoie discloses in Figure 6, that a user may press an "I" button to turn off the EPG display.

Regarding claim 8, LaJoie Discloses in Figure 26, that a user may press the select button 136 on a remote control to get detail information on a VOD program.

Regarding claim 9, LaJoie discloses in Figure 18, that a user may press the "Guide" key to receive more detailed information on a program.

Regarding claim 10, LaJoie discloses in Figure 4, that a user may press the "I" key to receive detailed information on a program, in Figure 25, LaJoie discloses that a user who presses the B key may purchase a VOD event.

Regarding claim 11, LaJoie discloses in Figure 4, that a user may change channels by pressing a +/- key 102.

Regarding claims 12 and 13, LaJoie discloses a method of ordering VOD programs in advance via an electronic program guide (Figures 29-32, Figure 29: list of times 568, column 31, lines 33-49), the programs can be recorded to a VCR via a timer which is set by a user (Figure 12).

Regarding claim 14, LaJoie discloses in Figure 25, that a user may place an order for a VOD program via the program guide.

Regarding claim 15, LaJoie Discloses in Figure 25, that a VOD program is identified by a PPV designation in the program guide, in screenshot 508.

Regarding claim 17, LaJoie discloses that VOD programs may be ordered and set on a timer for viewing in Figure 14.

Regarding claim 18, LaJoie discloses that parents may block channels for viewing by children via entry of a control code (column 13, lines 36-43, column 17, lines 15-22) and that a PIN code may be required to order a program (Figure 28).

Regarding claim 19, LaJoie discloses in Figure 29, that a user may order a VOD event via a program guide, select a start time, and automatically starting the program at the selected start time (column 31, lines 33-67).

Regarding claim 20, LaJoie reminds a user of the start time for a previously ordered VOD program (Figure 30, column 31, lines 50-67).

Regarding claim 22, in Figures 30-32, LaJoie reminds the user of a start time for an ordered program and provides an option to watch the program at the selected start time.

Regarding claims 23 and 24, LaJoie discloses a system in Figures 30-32 which reminds a user of a start time and provides VOD event menu for selecting additional times to purchase programming.

Regarding claim 26, LaJoie discloses a system in Figures 30-32 which reminds a user of a start time and allows a user to cancel the event via a press of the c button (column 32, lines 23-44).

Regarding claim 27, LaJoie discloses a EPG system which allows a subscriber to order a VOD program via a VOD program listing (Figure 24, column 29, lines 5-39), the program may be ordered in advance of its display time (Figure 28).

Regarding claim 28, LaJoie discloses that a user may select a start time to view a VOD program (Figure 29, column 31, lines 33-49).

Regarding claim 29, LaJoie discloses that a user may select a start time to view a VOD program (Figure 29: list of times 568, column 31, lines 33-49).

Regarding claims 31, 32, 79 and 80, LaJoie discloses a method of ordering VOD programs in advance via an electronic program guide (Figures 29-32, Figure 29: list of times 568, column 31, lines 33-49), the programs can be recorded to a VCR via a timer which is set by a user (Figure 12).

Regarding claims 35-37, 67-70, 83-85, LaJoie discloses in Figures 28-29, that a user may select a start time to view a VOD program with the left and right arrow key (Figure 29: list of times 568, column 31, lines 33-49), a reminder is provided and the program starts automatically at the selected start time, and the subscriber may switch to the event by pressing the "A" button (column 32, lines 21-33).

Regarding claim 50, LaJoie discloses in Figure 29, an EPG which displays both a TV program in a window and a listing of VOD programs in a box 566.

Regarding claim 52, LaJoie discloses in Figure 29, an EPG which displays both a TV program in a reduced sized window and a listing of VOD programs in a box 566.

Regarding claims 54 and 55, LaJoie discloses in Figure 4, that the EPG may be opened and closed by pressing the "I" key.

Regarding claim 56, LaJoie discloses that a user my press the select button for more detailed information on a VOD program.

Regarding claims 57 and 58, LaJoie discloses that a user my press the select button for more detailed information on a VOD program which takes up the main display, the user may press the B button to purchase the program.

Regarding claim 59, LaJoie discloses that pressing the +/- button on the keypad may change the channel.

Regarding claim 60, LaJoie discloses that the VOD program may be ordered via the EPG in Figure 26.

Regarding claim 61, LaJoie discloses in Figures 28-29, that a user may select a start time to view a VOD program with the left and right arrow key (Figure 29: list of times 568, column 31, lines 33-49).

Regarding claim 62, LaJoie discloses that parents may block channels for viewing by children via entry of a control code (column 13, lines 36-43, column 17, lines 15-22) and that a PIN code may be required to order a program (Figure 28).

Regarding claim 63 and 64, LaJoie discloses a method of ordering VOD programs in advance via an electronic program guide (Figures 29-32, Figure 29: list of times 568, column 31, lines 33-49), the programs can be recorded to a VCR via a timer which is set by a user (Figure 12).

Regarding claim 65, LaJoie Discloses in Figure 25, that a VOD program is identified by a PPV designation in the program guide, in screenshot 508.

Regarding claim 75, LaJoie discloses in Figures 25 and 28, an EPG which displays a number of VOD program listings; a subscriber can order a program in advance of viewing time.

Regarding claims 76 and 77, LaJoie discloses a method of ordering VOD programs in advance via an electronic program guide; a user can select a time to view

the program in the EPG (Figures 29-32, Figure 29: list of times 568, column 31, lines 33-49).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 16, 21, 25, 30, 33, 34, 38-41, 51, 53, 66, 71-74, 78, 81, 82 and 86-89 are rejected under 35 U.S.C. 103(a) as being unpatentable over by U.S. Patent 5,850,218 to LaJoie.

Regarding claim 5, LaJoie discloses in Figure 20, a theme option of navigating TV programming via a remote control (column 26, lines 48-60). LaJoie does not disclose if VOD programming is grouped by theme. The examiner takes official notice that grouping programming by themes is well known in the art. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify LaJoie to include PPV/VOD programming in the theme listings thereby making it easier for a subscriber to navigate programming choices.

Regarding claims 16 and 66, LaJoie Discloses in Figure 25, that a VOD program is identified by a PPV designation in the program guide, in screenshot 508. LaJoie does not disclose the use of an icon to indicate a PPV event, but does use a record icon 506 in figure 25 to indicate a program which is to be recorded. The examiner takes official

notice that the use of an icon to identify a type of programming is well known in the art. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify LaJoie to include an icon to identify VOD programming in a web browser allowing a subscriber to easily identify programs to watch.

Regarding claim 21, LaJoie discloses that the user is reminded of the start time for an ordered VOD program (Figure 30, column 31, lines 50-67) and offers a NVOD capability (column 32, lines 44-55). LaJoie does not provide an option to watch an ordered program immediately after the order. The examiner takes official notice that on-demand streaming of video programs is well known in the art. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify LaJoie to include an instantaneous streaming capability to allow a user to watch a program at any time instead of waiting a few minutes for the next iteration.

Regarding claim 25, LaJoie discloses a system in Figures 29-32 which reminds a user of a start time and provides VOD event menu for selecting additional times to purchase programming (Figures 29-32, Figure 29: list of times 568). LaJoie does not disclose the use of a viewer defined start time. The examiner takes official notice that the use of a user storage device to store and play back a VOD event at a viewer defined time is well known in the art. Therefore it would have been obvious to one skilled in the art at the time of invention to modify LaJoie to record a VOD program for playback and purchase at a viewer defined start time thereby providing a VOD system which is more flexible for the user and allows the user to view a program at any time.

Regarding claims 30 and 78, LaJoie discloses that a user may select a start time to view a VOD program with the left and right arrow key (Figure 29: list of times 568, column 31, lines 33-49). LaJoie does not disclose using the numeric keys to select a start time. The examiner takes official notice that the use of numeric keys to set a timer are well known in the art. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify LaJoie to allow a user to select a start time via numeric keys to enable a subscriber to order a program with fewer button presses on the remote, thereby saving time for the subscriber.

Regarding claims 33, 34, 81 and 82, LaJoie discloses in Figure 25, that a price is provided to a user for ordering a VOD event. LaJoie does not disclose pricing discounts for a subscriber who advance orders a VOD event. The examiner takes official notice that the using of discounts for pre-ordering products is well known in the art. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify LaJoie to include a discount for pre-ordering events in order to encourage more subscribers to order events, including those subscribers who would not order the event at a higher price.

Regarding claims 38-41, and 73, 74 and 86-89, LaJoie discloses in Figures 28-29, that a user may select a start time to view a VOD program with the left and right arrow key (Figure 29: list of times 568, column 31, lines 33-49), a reminder is provided and the program starts automatically at the selected start time, and the subscriber may switch to the event by pressing the "A" button (column 32, lines 21-33). LaJoie does not

allow the subscriber to change the start time indicated on the reminder window to a new start time. The examiner takes official notice that the use of a timer in conjunction with a set top storage device which stores a VOD program which is played back at a user defined time is well known in the art (LaJoie Figure 12). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify LaJoie to include a set top storage device which plays back a stored program at a viewer defined start time in order to allow a user to view a VOD program at any time, including times in which the program is not available for download.

Regarding claim 51, LaJoie discloses in Figure 29, an EPG which displays both a TV program in a window and a listing of VOD programs in a box 566; LaJoie discloses in Figure 6, a TV program which is overlaid with a program guide display. The examiner takes official notice that overlaid program guides are used to navigate VOD programming. Therefore it would have been obvious to one skilled in the art at the time of invention to modify the overlaid program guide LaJoie to display VOD information thereby allowing a user to browse VOD programming while watching a TV program.

Regarding claim 53, LaJoie discloses in Figure 29, an EPG which displays both a TV program in a window and a listing of VOD programs in a box 566; in figure 20, LaJoie discloses an EPG which organizes programs by theme, the EPG is navigated by remote control keys (column 19, lines 39-54). LaJoie does not disclose the grouping of VOD programs by categories. The examiner takes official notice that programming may be grouped by theme. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify LaJoie to group VOD programming by theme thereby

allowing a subscriber to find VOD programming which they are interested in more rapidly.

Regarding claims 71 and 72, LaJoie discloses in Figures 28-29, that a user may select a start time to view a VOD program with the left and right arrow key (Figure 29: list of times 568, column 31, lines 33-49), a reminder is provided and the program starts automatically at the selected start time. La Joie does not provide a user a prompt in the reminder system to select a new start time, but does offer an option to cancel a VOD event (Figure 12). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify LaJoie to offer a new list of start times in the reminder system to allow a user to reschedule a VOD event in the case they are unable to watch the program at their original time.

Claims 42-48, and 90-97 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 5,850,218 to LaJoie in view of U.S. patent 5,583,560 to Florin.

Regarding claims 42-45, and 90-93, LaJoie discloses an EPG system which allows a user to browse VOD programming (Figure 25). LaJoie does not disclose the ability to request a video clip preview. Florin discloses an EPG system with VOD programming in Figure 38, that includes a preview icon 382 which allows a subscriber to request playback of a trailer for a VOD program in a video window (column 22, lines 52-67). Therefore, it would have been obvious to one skilled in the art at the time of

invention to modify LaJoie to include the VOD preview option as taught by Florin in order to interest a subscriber in purchasing the program.

Regarding claim 46 and 94, LaJoie discloses an EPG system which allows a user to browse VOD programming (Figure 25); a user can preview a movie for 15 minutes after which, a window 602 is presented giving the user the option to purchase the rest of the program (Figure 32). LaJoie does not disclose the ability to request a video clip preview. Florin discloses an EPG system with VOD programming in Figure 38, that includes a preview icon 382 which allows a subscriber to request playback of a trailer for a VOD program in a video window (column 22, lines 52-67). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify LaJoie to include the VOD preview option as taught by Florin in order to interest a subscriber in purchasing the program.

Regarding claims 47 and 95 LaJoie discloses an EPG system which allows a user to browse VOD programming (Figure 25). LaJoie does not disclose the ability to request a video clip preview. Florin discloses an EPG system with VOD programming in Figure 38, that includes a preview icon 382 which allows a subscriber to request playback of a trailer for a VOD program in a video window (column 22, lines 52-67). Florin does not disclose showing the preview full screen. The examiner takes official notice of displaying barker advertisements for VOD events may be shown full screen. Therefore it would have been obvious to one skilled in the art at the time of invention to modify LaJoie to include the VOD preview option as taught by Florin, displaying the preview full screen in order to interest a subscriber in purchasing the program.

Regarding claims 48 and 96, LaJoie discloses an EPG system which allows a user to browse VOD programming (Figure 25). LaJoie does not disclose the ability to request a video clip preview. Florin discloses an EPG system with VOD programming in Figure 38, that includes a preview icon 382 which allows a subscriber to request playback of a trailer for a VOD program in a partial video window (column 22, lines 52-67). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify LaJoie to include the VOD preview option as taught by Florin in order to interest a subscriber in purchasing the program.

Claims 49 and 97 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 5,850,218 to LaJoie in view of U.S. patent 5,583,560 to Florin in further view of U.S. Patent 6,177,931 to Alexander.

Regarding claims 49 and 97, LaJoie discloses an EPG system which allows a user to browse VOD programming (Figure 25). LaJoie does not disclose the ability to request a video clip preview and display that preview in a long with a program guide and TV window. Florin discloses an EPG system with VOD programming in Figure 38, that includes a preview icon 382 which allows a subscriber to request playback of a trailer for a VOD program in a partial video window (column 22, lines 52-67). Alexander discloses in Figure 1, an EPG display with windows 12, 14 and 16. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify LaJoie to include the VOD preview option as taught by Florin in order to interest a subscriber in purchasing the program and allow a subscriber to view the video preview, EPG and a

TV show in an EPG display as taught by Alexander in order to allow a user to watch a TV show while looking for a new program to watch.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 703-305-3234. The examiner can normally be reached on Monday-Friday normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5359 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

HBL  
December 11, 2002



VIVEK SRIVASTAVA  
PATENT EXAMINER